

(5)

UNITED STATES DISTRICT COURT

for the

Northern District of California

Division

HERMAN HOLLAND, JR.
Plaintiff IN PRO PER

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

AMAZON INC. et al.,
DOES 1 - 100

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

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pd.

2021 DEC 20 P 2:53

CLERK, US DISTRICT COURT
NO. DIST. OF CA.

C 21-09860

Case No.

(to be filled in by the Clerk's Office)

JSC

Jury Trial: (check one) ☒ Yes ☐ No

ISS

FILED

DEC 20 2021

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	HERMAN HOLLAND, JR.
Street Address	6748 Banning Drive
City and County	Oakland, Alameda County
State and Zip Code	California 94611
Telephone Number	415-577-4499
E-mail Address	hermanholland2@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	AMAZON INC.
Job or Title <i>(if known)</i>	
Street Address	P.O. Box 81226
City and County	Seattle, King County
State and Zip Code	Washington, 98108
Telephone Number	206-266-7010
E-mail Address <i>(if known)</i>	unknown

Defendant No. 2

Name	N/A
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	N/A
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	N/A
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Amazon, Inc + Whole Foods Market
Street Address	1025 Gilman Street
City and County	Berkeley, Alameda County
State and Zip Code	California, 94710
Telephone Number	510-809-8293

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☒ Other federal law (specify the federal law):

Specify federal laws unknown to Plaintiff, In Pro Per at this time;

- ☒ Relevant state law (specify, if known):

Specify state laws unknown to Plaintiff, In Pro Per at this time;

- ☒ Relevant city or county law (specify, if known):

Specify city and/or county laws unknown to Plaintiff, In Pro Per at this time;

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

☐

Failure to hire me.

☐

Termination of my employment.

☐

Failure to promote me.

☒

Failure to accommodate my disability.

☐

Unequal terms and conditions of my employment.

☒

Retaliation.

☒

Other acts *(specify)*: Discrimination based on my complaints of harassment.

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
June 25, 2020, July 22, and 28, 2021, August 03, and August 23, 2021

C. I believe that defendant(s) *(check one)*:

☒

is/are still committing these acts against me.

☐

is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

☒

race African American

☐

color _____

☐

gender/sex _____

☐

religion _____

☐

national origin _____

☐

age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*

☒

disability or perceived disability *(specify disability)*

Blind L. Eye-Glucoma R. Eye-Diabetes, High Blood Pressure

E. The facts of my case are as follows. Attach additional pages if needed.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Attached as Exhibit "A"

Statement of Facts dated September 10, 2021, Submitted to EEOC Rep. Bryan Hoss, stamped as received by the EEOC Office on September 16, 2021;

Attached as Exhibit "B"

EEOC Charge of Discrimination, dated on or about September 21, 2021

Attached as Exhibit "C"

EEOC Notice of Right to Sue, issued September 28, 2021 and received by me on September 29, 2021

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

September 10, 2021 with EEOC Investigator Patrick Gheorghe

- B. The Equal Employment Opportunity Commission (check one):

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on (date) 09-29-2021.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Plaintiff is In Pro Per at this time, and is filing this complaint to protect the statute of his EEOC Notice of Right to Sue, which is set to expire before the end of the month of December 2021, but Plaintiff is actively seeking to hire an Employment Law Attorney to represent him in this legal matter. Plaintiff is acting without an Attorney, but has suffered unknown actual damages, emotional distress and punitive and/or exemplary money damages in an amount to be determined at a later date, because the wrongs alleged are continuing at the present time, since they took away my UPH Waiver, they are using of the UPH (Unit Per Hour) Quota System as weapon against me to track how fast I'm working as a means to control me by writing me up without my knowledge, with the attempt to wrongfully terminate my employment with Amazon Inc., due to my complaints of harassment, retaliation and discrimination. Equitable and other relief is sought under 42 U.S.C. Section 2000e-5(g).

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12-20-2021

Signature of Plaintiff

Printed Name of Plaintiff

Herman Holland, Jr.
HERMAN HOLLAND, JR. (In Pro Per)

B. For Attorneys N/A

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

EXHIBIT "A"

HERMAN HOLLAND, JR.
6748 Banning Drive
Oakland, CA 94611
415-577-4499
hermholland2@gmail.com

September 10, 2021

Equal Employment
Opportunity Commission (EEOC)
1301 Clay Street, #1170
Oakland, CA 94612-5217

RECEIVED

SEP 10 2021
EEOC - OLO

RE: Herman Holland, Jr.
#555-2021-01376
Interview Date: 09/10/2021
Time: 11:00 am

Attention Bryan Hoss, EEOC Representative:

Mr. HERMAN HOLLAND, JR declare that I would like to file a "Charge of Discrimination and Retaliation" against my employer Amazon and subsidiary Prime Now LLC, owners of Whole Foods Market, and it's employees Mr. Omar Angeles, Mr. Joseph Cosso and Ms. Caroline Morales.

I am a 71 year old African American male who is legally blind in my left eye and suffer with severe glaucoma in my right eye, my other disabilities are Type 2 Diabetes and High-Blood Pressure.

On November 26, 2019, I became a grocery "Shopper" for Amazon at Whole Foods Market, located at 1025 Gilman Street, Berkeley, CA. My duties were to "Pick, Pack and Stage" the grocery items for Amazon's Delivery Drivers to pick up.

Amazon's Shoppers had to select their schedules on the company's employee website at 6:15 pm, which was very difficult and competitive, and I was having trouble picking up shifts, so due to my physical disabilities I requested a "Work Accommodation" for a set schedule that was granted on June 24, 2020, stating that I would work every Tuesday, Wednesday & Thursday from 10:30 am to 3:30 pm.

Amazon's Accommodation Team Member, Ms. Heather Gilroy asked me if there was anything else I needed, so on June 25, 2020, I wrote them a letter requesting a UPH Waiver (Units Per Hour) which is a calculation of items picked per hour. Amazon has a UPH Quota for their Shoppers which is used to put pressure on the Shoppers to work faster to the point that is not safe and very stressful. A Shopper can be given a "Written Warning Letter" for going below the UPH Quota, where after you receive 3 Written Warnings, your 4th notice is a "Final Written Warning" which is grounds for termination.

On June 28, 2020 I reached out to Amazon's Accommodation Team to inquire as to the status of my request and on June 29, 2020 I received a written response from Amazon's Employee Mrs. Gladys Hernandez, Case Owner HRC, stating that the matter had been updated to my file. On June 30, 2020 informed my Amazon manager Mr. Dharmil Patel as to my "Work Shift Accommodation", and a UPH Waiver was updated to my case file.

Since my employment with Amazon, I have had several new site managers come and go, so I continued to give each new manager verbal notice of my work accommodations and prior to July 22, 2021 I have never been written up for anything, because I work hard and do my job with no problems from my prior managers until sometime around November or December 2020 a new manager was hired by the name of Joseph Cosso. Mr. Cosso had no prior work experience with Amazon before being hired as the Site Manager at the Whole Foods Market in Berkeley, CA.

Mr. Cosso started out as a nice guy learning the ropes of the job, until someone who was an Amazon employee above him instructed him to take a hard line stance against the Amazon Shoppers to make them work faster and if they failed to work faster, serve them with a "Written Warning Letters" that could be used to get rid of them when they reached a 4th and "Final Written Warning Letter" that would result in "Termination" from Amazon.

Mr. Cosso started harassing me on the job, so on June 16, 2021, I filed a formal "Complaint of Harassment" with Amazon's HR Department regarding two incidents the 1st on May 20, 2021, and the 2nd on June 15, 2021, Case #28659476, which was investigated by Amazon's Central Investigations Department out of Seattle, WA. On June 23, 2021, I was interviewed by Ms. Tina Amela, Amazon's HR Investigator by telephone. On June 25, 2021 I received an email from Ms. Amela stating, "At this time my investigation is complete. Based on the facts gathered, the investigation did not find any violation of Amazon policy or standards of conduct."

On June 17, 2021 Mr. Cosso continued to harass me on the job in front of witnesses, where I demanded that he stop harassing me and allow me to do my job. One witness who's name is unknown to me, was a Whole Foods Market employee working in the Meat Department and the second witness was an Amazon Shopper whose name is Ms. Stephanie Hershman.

On June 25, 2021, I filed a second formal "Complaint of Harassment" against Mr. Cosso, with Amazon's HR Department, regarding incident number #3, which occurred on June 17, 2021, Case #28876958. This case was closed by Amazon's HR Department on June 25, 2021, with an email stating, "We are closing this HR Case as the investigation case is now active." Amazon's HR Department and Central Investigations failed to contact me for an interview, failed to contact my witness Ms. Stephanie Hershman and failed to investigate my "Complaint of Harassment" filed against my manager Mr. Joseph Cosso.

On July 22, 2021, I was told by one of my co-workers that Co-Manager Mr. Joseph Cosso was being transferred to Amazon+Whole Foods Market/Potrero Hill in San Francisco. I believe that this transfer was due to my harassment complaint and I thought my troubles were over, but later that day I was approached by Co-Manager Mr. Omar Angeles, who was becoming the sole site manager of the Amazon's Whole Foods Market, Gilman location in Berkeley, CA., starting July 23, 2021.

Timing is everything, since it was Mr. Cosso's last day at the Gilman site, Mr. Cosso, Mr. Angeles and Ms. Morales conspired to retaliate against me, due to my prior complaints filed against Mr. Cosso and since this was his last day at the Gilman site, he wanted me to suffer emotional distress for filing my complaints against him, so they came up with a plan to deny that I had "UPH Waiver", in-order to start writing me up with "Written Warning Letters", so that I would reach a total number of written warnings, until I qualified for termination from Amazon.

On July 22, 2021, Mr. Angeles informed me that he was writing me up with a "Written Warning Letter" for failure to meet Amazon's UPH Quota. I told Mr. Angeles that I have a "UPH Waiver", he told me, "We checked and you do not have a waiver"; the "We" Mr. Angeles was referring to was himself, Co-Manager Mr. Omar Angeles, Co-Manager Joseph Cosso and Senior HR Rep. Caroline Morales, and little did I know that they were plotting to get back at me for filing my previous complaints of harassment filed against Mr. Cosso. This action was a clear act of "RETALIATION" and "Age Discrimination" against me for standing up for myself and protecting my rights as a California employee.

On July 23, 2021, I filed a formal "Complaint of Retaliation" against Amazon's Manager Mr. Omar Angeles, with Amazon's HR Department, regarding incident number #1, dated July 22, 2021, Case #30142689. On July 23, 2021, I received an email from Amazon HR Team, stating that this case was closed pending investigation. No one from Amazon's HR Team or Amazon's Central Investigations Team ever contacted me or investigated my "Complaint of Retaliation".

On July 23, 2021, since I never received a response from Amazon's HR Dept. or Central Investigations Team, so I filed to re-opened Case #28876958, regarding the July 17, 2021 incident with Mr. Cosso. On July 23, 2021 I again received an email stating, "ERC Team (Employee Resource Center) will reach out to you. We are closing this HR Case as the investigation case is now active." Again no one from Amazon's HR Team or Central Investigations Team contacted me or my witness Ms. Hershman regarding this incident, and no one investigated my "Complaint of Harassment".

On July 28, 2021, Amazon's Manger Mr. Angeles again informed me that he was writing me up with a "Written Warning Letter" for failure to meet Amazon's UPH Quota. I told Mr. Angeles that he was retaliating against me for filing complaints against Mr. Cosso and that he was discriminating against me due to my disabilities, my age and my race, when he said I did not have a "UPH Waiver".

On July 28, 2021, I filed a 2nd formal "Complaint of Retaliation and Harassment", against Mr. Omar Angeles with Amazon's HR Department, regarding incident #2 dated July 28, 2021, Case #30346591. On July 28, 2021, I received an email from Amazon's HR Team stating that this case was closed pending investigation. Again no one from Amazon's HR Team or Amazon's Central Investigations Team contacted me or investigated my Complaint of "Retaliation and Harassment".

On August 03, 2021, Amazon's Manager Mr. Omar Angeles again informed me that he was writing me up with a third "Written Warning Letter" for failure to meet Amazon's UPH Quota. I told Mr. Angeles that he was "Harassing and Retaliating" against me and abusing his power as manager and was using the written warning letters as a weapon to wrongfully terminate my employment with Amazon.

On August 03, 2021, I filed a 3rd formal "Complaint for Retaliation and Harassment" against Mr. Omar Angeles with Amazon's HR Department, regarding incident #3 dated August 03, 2021, Case Number 30599519.

On August 03, 2021, I received an email stating, "We are partnering with site HR regarding your request. Your site HR team will reach out to you directly to provide an update. No one contacted me from Amazon's HR Team and the case remain open but not active.

Due to fear of being "Wrongfully Terminated" on August 09, 2021, I prepared a "Cease and Desist Order" and on August 10, 2021 served it on Amazon's Legal Department, Amazon's HR Department, Caroline Morales, Senior HR Rep and Amazon Manager Omar Angeles.

Again timing is everything, after I served my "Cease and Desist Order", on Amazon on August 10, 2021, around 10:30 am, later that evening on August 10, 2021 at 04:19 pm I received an email from Caroline Morales, Sr. HR Rep., regarding my "Complaint of Retaliation and Harassment, Case #30599519" where she stated, "At this time we have identified there is not an UPH exemption on file and as such your performance will be reviewed accordingly. We have moved forward with performance review without your input." At no point does Ms. Morales address my "Complaint of Retaliation and Harassment" only stating that I have no UPH exemption. On August 11, 2021 Ms. Morales closed the case file, thereby failing again to investigate my "Complaint of Retaliation and Harassment".

My written "Request for UPH Waiver" was submitted on June 25, 2020, was updated by Amazon's HR Department on or about June 28, 2020 and confirmed by email on June 29, 2020 and if for some unknown reason it was not granted, I was never given a written denial letter, or received any type of verbal notice of denial, so why would it take until August 10, 2021 to state that she could not identified a UPH exemption and only raised after I filed several complaints of "Retaliation, Harassment and Discrimination".

At no point did she address Amazon's Managers Mr. Joseph Cosso and Mr. Omar Angeles, or her own involvement in their retaliation, harassment, disabilities, age and race discrimination, in my opinion their actions were intentional and performed with malice and forethought, with the intent to cause me harm and to suffer emotional distress. Amazon, Prime Now, LLC, Caroline Morales. Amazon's HR Department and Amazon's Central Investigations Department, approved of these actions, failed to investigate my complaints, failed to protect me and hereby ratified these actions against me to conform with Amazon's policies, procedures and code of conduct.

Amazon's HR Department and Manager Omar Angeles have never provided me with any copies of any documentation regarding any "Written Warning Letters" for my records and have failed to email me copies of such documentation, which is a violation of State and Federal Employment Laws.

REQUEST A NOTICE OF RIGHT TO SUE

I, HERMAN HOLLAND, JR. hereby declare that I request a notice of right to sue Amazon, Prime Now LLC, Mr. Joseph Cosso, Mr. Omar Angeles and Ms. Caroline Morales based on the charge stated as follows:

This charge is filed under Title VII, discrimination based on race, and under the Americans with Disabilities Act (ADA) and Age Discrimination in Employment Act.

I declare under the penalty of perjury under the laws of State of California, under the Federal laws of the United States of American, that the foregoing information is true and correct.


HERMAN HOLLAND, JR.

RECEIVED

SEP 1 2021

EEOC - CLO

EXHIBIT "B"

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 555-2021-01376	
CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT & HOUSING and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) MR. HERMAN HOLLAND JR.		Home Phone (415) 577-4499	Year of Birth 1950
Street Address 6748 BANNING DRIVE, OAKLAND, CA 94611		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name AMAZON INC.		No. Employees, Members 501+	Phone No.
Street Address 1025 GILMAN STREET, BERKELEY, CA 94710		City, State and ZIP Code	
Name		No. Employees, Members	Phone No.
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 06-25-2020 08-23-2021 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): I was hired by Respondent on or about November 26, 2019 as an Amazon Shopper. My immediate supervisor is Omar Angeles, Site Manager. On or about June 25, 2020, I submitted a request for reasonable accommodation asking that I be given a waiver to meet the Units Per Hour (UPH) criteria of my job. The accommodation was approved on June 30, 2020. Each time I received a new supervisor, I notified them of my reasonable accommodation, and I was able to perform my job duties without any issues. In or around April 2021, Respondent hired my current manager Omar Angeles to co-supervise with Joseph Cosso, Site Manager and former supervisor. On or around May 20, 2020 Joseph Cosso began to harass me in the workplace. For example, he accused me of personally shopping while on the job and when confronted about the false accusation he replied that hed better not catch me. He harassed me again on or about June 15, 2021, and on or about June 17, 2021. I filed a complaint with Respondent after both incidents. After Joseph Cosso was transferred to another site, on or about July 22, 2021, Omar Angeles wrote me up for failing			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

CP Enclosure with EEOC Form 5 (11/09)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. FORM NUMBER/TITLE/DATE. EEOC Form 5, Charge of Discrimination (11/09).

2. AUTHORITY. 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.

3. PRINCIPAL PURPOSES. The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.

4. ROUTINE USES. This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.

5. WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION. Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an

EEOC Form 5 (11/09)

<p align="center">CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC 555-2021-01376</p>
<p align="center">CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT & HOUSING and EEOC</p> <p align="center"><i>State or local Agency, if any</i></p>	
<p>to meet the UPH criteria. When I notified him that I had an accommodation for the UPH criteria, he replied that I do not, and he checked. I filed a complaint on or about July 23, 2021 regarding Omars discriminatory harassment and retaliation. Omar Angeles wrote me up again on or about July 28, 2021, and August 23, 2021. I filed complaints with Respondent again after both incidents. I also filed a cease and desist order on or about August 9, 2021 against Omar, Caroline Morales, Senior Human Resources Representative, and Respondents legal department regarding the discriminatory acts. I received an email from Carolina on or about August 10, 2021 notifying me that they will continue to write me up but will not notify me when they do so. Respondent has conducted an investigation; however, it alleges that no policies were violated.</p> <p>I believe I am being discriminated against based on my race (African American/Black) and retaliated against for participating in protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended. I further believe I am being denied reasonable accommodation in violation of Title I of the Americans with Disabilities Act of 1990, as amended.</p>	

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY - <i>When necessary for State and Local Agency Requirements</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>

investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

EXHIBIT "C"

EEOC Form 161-B (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Herman Holland, Jr.**
6748 Banning Drive
Oakland, CA 94611

From: **Oakland Local Office**
1301 Clay Street
Ste. 680-North
Oakland, CA 94612

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On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

555-2021-01376

Patrick Gheorghe,
Investigator

(510) 956-0019

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

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More than 180 days have passed since the filing of this charge.

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Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

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The EEOC is terminating its processing of this charge.

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The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

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The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

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The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Digitally signed by Steven Hunt

Date: 2021.09.28 19:02:01

-07'00'

Steven Hunt

09/28/2021

(Date Issued)

Enclosures(s)

Steven T. Hunt,
Director

cc:

AMAZON INC.
1025 Gilman Street
Berkeley, CA 94710

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope or record of receipt, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was issued to you** (as indicated where the Notice is signed) or the date of the postmark or record of receipt, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do **not** relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Enclosures(s)

cc: **Neil M. Alexander**
AMAZON.COM, INC. C/O LITTLER MENDELSON
Global Services Center
2301 Mcgee Street, Suite 800
Kansas City, MO 64108

NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA): The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

“Actual” disability or a “record of” a disability (note: if you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability):

- **The limitations from the impairment no longer have to be severe or significant** for the impairment to be considered substantially limiting.
- In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), **“major life activities” now include the operation of major bodily functions**, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.
- **Only one** major life activity need be substantially limited.
- With the exception of ordinary eyeglasses or contact lenses, **the beneficial effects of “mitigating measures”** (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications) **are not considered** in determining if the impairment substantially limits a major life activity.
- An impairment that is **“episodic”** (e.g., epilepsy, depression, multiple sclerosis) or **“in remission”** (e.g., cancer) is a disability if it **would be substantially limiting when active**.
- An impairment **may be substantially limiting even though** it lasts or is expected to last fewer than six months.

“Regarded as” coverage:

- An individual can meet the definition of disability if an **employment action was taken because of an actual or perceived impairment** (e.g., refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment).
- “Regarded as” coverage under the ADAAA no longer requires that an impairment be substantially limiting, or that the employer perceives the impairment to be substantially limiting.
- The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively **BOTH** transitory (lasting or expected to last six months or less) **AND** minor.
- A person is not able to bring a failure to accommodate claim *if* the individual is covered only under the “regarded as” definition of “disability.”

Note: *Although the amended ADA states that the definition of disability “shall be construed broadly” and “should not demand extensive analysis,” some courts require specificity in the complaint explaining how an impairment substantially limits a major life activity or what facts indicate the challenged employment action was because of the impairment. Beyond the initial pleading stage, some courts will require specific evidence to establish disability.* For more information, consult the amended regulations and appendix, as well as explanatory publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.